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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,595	01/13/2006	Ulrich Hardebusch	079794.0108	2053
31625 7590 12/17/2009 BAKER BOTTS L.L.P. PATENT DEPARTMENT 98 SAN JACINTO BLVD., SUITE 1500 AUSTIN, TX 78701-4039			EXAMINER DABNEY, PHYLESHA LARVINIA	
			ART UNIT 2614	PAPER NUMBER
			NOTIFICATION DATE 12/17/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

monty.hamilton@bakerbotts.com
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Office Action Summary

Application No.

10/564,595

Applicant(s)

HARDEBUSCH ET AL.

Examiner

PHYLESHA DABNEY

Art Unit

2614

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/22/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

This action is in response to the Application received on 22 September 2009 in which claims 11-27 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **11-15, 17-20, 23-27** are rejected under 35 U.S.C. 102(b) as being anticipated by Clark (U.S. Patent No. 6,134,336).

Regarding claim 11, Clark teaches an acoustic converter for a portable device, comprising: a housing (102), comprising a membrane rear volume (202); an opening structure (204, 205, 208, 210), located on the membrane rear volume; internal walls (fig. 5; at 502, 504, 506) located on a rear wall of the device, wherein the internal walls form an acoustic channel through which sound is directed to the opening structure; and an acoustical blocking element (412, 426, 428), located over the opening structure, wherein the acoustical blocking element forms an acoustic seal between the opening structure and the rear wall.

Regarding claim 12, Clark teaches the acoustic converter according to claim 6, wherein the portable device is a telephone (fig. 1).

Regarding claim 13, Clark teaches the acoustic converter according to claim 6, wherein the internal walls comprise at least a single layer (fig. 5).

Regarding claims 14 and 25, Clark teaches the acoustic converter according to claim 6, wherein the internal walls are formed concentrically (figs. 2 and 5).

Regarding claim 26, Clark teaches the telephone handset according to Claim 25, wherein the acoustic converter is an earpiece which is arranged between a lower shell of the telephone handset and an upper shell of the telephone handset the upper shell forming the rear housing part (fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **15-19, 21, 23-24, and 26-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark.

Regarding claim 15, Clark teaches a telephone handset with a standard wideband acoustic converter for making acoustic signals audible, wherein in a rear wall of a housing of the acoustic converter, a member rear volume (202) of the acoustic converter includes openings (204, 205, 208, 210) opening towards the outside of the

acoustic converter; wherein a rear housing part of the telephone handset includes internal walls (fig. 5; at 502, 504, 506, 508) forming a channel around the openings of the rear wall of the housing of the acoustic converter through which an area up to the rear housing part of the telephone handset is sealed in a soundproof manner; and wherein openings (204, 205, 208, 210) of the telephone handset are arranged in the rear housing part in an area within the internal walls surrounding the openings in the rear wall of the housing of the acoustic converter forming a channel for sound to escape to the outside of the telephone handset; wherein the transition from free ends of the internal walls (fig.5) forming the channel of the rear housing part of the telephone handset to the rear wall of the housing of the acoustic converter is sealed in a soundproof manner by additional material (412); and although Clark teaches providing additional ring shaped sealing material (412, 726) which could be any suitable material (col. 7 lines 17-20; col. 8 lines 36-38), Clark does not specifically teach using foam plastic material.

However, the Examiner takes official notice that it is known to use felt, foam, or any suitable material to seal an earphone, and thus provide acoustic damping.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize any known material in the invention of Clark to provide a ring-shaped seal and thus provide acoustic impedance.

Regarding claim 16, Clark does not specifically teach the telephone handset according to Claim 15, wherein the telephone handset is corded. However, the

Examine takes official notice that it is known to connect a cord to a telephone handset of the type described by Clark to provide charging/power to the unit and simultaneously allow use. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a cord with the invention of Clark for the reasons stated.

Regarding claim 17, Clark teaches the telephone handset according to Claim 15, wherein the telephone handset is cordless (fig. 2).

Regarding claim 18, Clark teaches the telephone handset according to Claim 15, wherein the internal walls (fig. 5; at 502, 504, 506) of the telephone handset forming the channel are embodied as at least a single layer (fig. 5).

Regarding claim 19, Clark teaches the telephone handset according to Claim 15, wherein the internal walls (fig. 5; at 502, 504, 506) of the telephone handset forming the channel are embodied concentrically.

Regarding claims 21 and 27, although Clark teaches providing additional ring shaped sealing material (412, 726) which could be any suitable material (col. 7 lines 17-20; col. 8 lines 36-38), Clark does not specifically teach using foam plastic material. However, the Examiner takes official notice that it is known to use felt, foam, or any suitable material to seal an earphone, and thus provide acoustic damping. Therefore, it

would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize any known material in the invention of Clark to provide a ring-shaped seal and thus provide acoustic impedance.

Regarding claim 23 and 26, Clark teaches the telephone handset according to Claim 15, wherein the acoustic converter is an earpiece which is arranged between a lower shell of the telephone handset and an upper shell of the telephone handset the upper shell forming the rear housing part (fig. 1).

Regarding claim 24, Clark teaches the telephone handset according to Claim 15, wherein the acoustic converter has a wideband transmission range from about 160 Hz to about 6.3 kHz (figs. 11-12).

Response to Arguments

Applicant's arguments filed have been fully considered but they are not persuasive.

With respect to the Applicant's argument that Clark fails to teach the Applicant's invention, the Examiner disagrees.

As per the Applicant's drawing Figure 2, the openings, blocking member, and internal walls are formed behind the speaker. Clark clearly teaches an openings (204, 205, 208, 210), acoustic blocking member (412, 426, 428), internal walls (fig. 5; at 502,

504, 506, 508) located behind the speaker at the rear of the housing (102, 113). More specifically, Clark teaches felt (412) blocking the openings (426, 428).

Felt or foam is used as a blocking member in speakers as evidenced by Erhard Michaelis (3586794; cited here and present in the rejection mailed 5/22/09; col. 2 lines 54 through col. 3 line 8).

Therefore, the rejection is maintained.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Erhard Michaelis (U.S. Patent No. 3586794) teaches foam or felt being used for acoustic damping of a speaker (fig. 1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHYLESHA DABNEY whose telephone number is (571)272-7494. The examiner can normally be reached on Monday through Thursday 9:00-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P O Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(703) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

Hand-delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 10, 2009

/PHYLESHA DABNEY/
Examiner, Art Unit 2614
/Fan Tsang/
Supervisory Patent Examiner, Art Unit 2614